

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

A.P. Endowments Tribunal – O.A.No.2490 of 2010 (Old No.131 of 2009) of D.C. Kakinada) – Judgment referred to Government for final decision with regard to pronouncement of judgment - Communication of the decision of the Government-Orders – Issued.

REVENUE (ENDTS.IV) DEPARTMENT

G.O.Ms.No. 456

Dated: 06.08.2013
Read :-

From the Chairman-cum-District Judge, A.P. Endowments Tribunal, Hyderabad,
Lr.in Rc.No.in/131/2009, Dated 30.04.2011.

ORDER:-

Whereas, Sri Perumalla Peda Subba Rao Gupta, S/o P.S.R.C. Murthy, Powerpet, Eluru, W.G. District has filed O.A. against Sri Perumalla China Subba Rao Choultry, Powerpet, Bhimavaram, rep. by its Manager and the Asst. Commissioner, Endowments Department, Eluru as respondents U/s 87 (1)(h) of the Act, 30/87 amended by the Act, 27/2002 and 33/2007, praying the Hon'ble A.P.E.T to declare him as Member of Founder's Family of the subject Institution.

2. After hearing both sides i.e., the applicant and the respondents, the following points arose for consideration to decide by the A.P.E.T:

- i) Whether the petitioner is entitled to be recognized as Member of founder family of the subject choultry u/s 87(1)(h) r/w 15-19 of the Act and if so with any others?
- ii) To what result?

3. The Chairman A.P.E.T., Cum District Judge after discussing the issue point wise concluded his judgment as below:-

"Accordingly and in the result, the petition is allowed with no costs, holding that the petitioner and the present acting trustee Perumalla Narasimha Murthy are entitled to be recognized as members of the founder's family being the agnatic lineal descendants of the founder of the choultry. Advocate fees fixed is Rs.2,000/-."

4. Whereas, the Member, A.P.E.T. has differed with the above conclusion and delivered the following judgment:

"The petitioner can be termed as Trustee but not as founder. As per Section 17, Explanation-II –"Member of the family of the founder" means children, grand children and so in agnatic line of succession for the time being in force and declared or recognised as such by the relevant appointing authority. Agnate is defined in Sec. 3(a) of Hindu Succession Act as one person is said to be an agnate of another if the two are related by blood or adoption wholly through male. Thus, a legatee by virtue of the Regd. Trust Deed cannot be recognised as agnate. Further, as per the Explanation I to Section 17(1) of the Act Founder means-(a). in respect of an institution or endowment existing at the time of commencement of the Act. 30/1987, the person who was recognised as hereditary trustee under the old Act, 1966 or a member of his family recognised by the competent authority. U/s. 77 of the Act, 17/66 the Deputy Commissioner was competent to recognise and declare a person to be Hereditary Trustee after due enquiry and there is no such order passed by the Deputy Commissioner declaring any of the brother's (or) brother's children of the Founder China Subba Rao much less the petitioner herein. Hence, the petitioner herein is not in agnatic line of succession of the Founder-Sri Perumalla China Subba Rao nor declared as Hereditary Trustee U/s 77 of the repealed Act, 17/66 and therefore the petitioner cannot be declared as Member of the family of the founder Trustee of Sri Perumalla China Subba Rao Choultry,

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Bhimavaram, West Godavari District. *Accordingly, and in the result, the petition is dismissed with no costs, holding that the petitioner is not entitled to be declared as Member of the family of the founder Trustee of Sri Perumalla China Subba Rao Choultry, Bhimavaram, West Godavari District*”.

5. In view of the different conclusions of the Chairman and Member, the Chairman referred the matter to the Government for taking a final decision by Government as per rule 22 (2) APC&HRI and Endowment Tribunal Rules, 2010 made in G.O.Ms.No.180, Dt:28.01.2011 so as to enable the Tribunal to pronounce final judgement.

6. As per the rule 22 (2) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987: “Both the Chairman and Member should hear the arguments in the application and deliver the order signed by both of them or independently. In case of disagreement the Chairman shall address the Government ”.

7. Government, after carefully examining the opinions of both the Chairman & Member of A.P. Endowments Tribunal observed that the said petitioner being the paternal grandson of the elder brother of the original founder China Subba Rao is entitled to act as one of the trustees of the choultry as per Trust Deed and from the entries in the property register and so to recognise as member of the founder family of the choultry with any others who are alive among the brothers family of late China Subba Rao the founders within the definition of agnates U/s. 3(a) of the Hindu Succession Act, 1956, without prejudice to their right also to claim for recognition of them if any. For the present and from the record there are no particulars as to who others are alive other than the presently acting trustee Perumalla Narasimha Murthy, the petitioner along with said present acting Trustee Perumalla Narasimha Murthy are entitled to be recognized as members of founder family of the choultry. Accordingly, the petitioner and the present acting trustee Perumalla Narasimha Murthy are entitled to be recognised as members of the founder’s family being the agnatic lineal descendants of the founder of the choultry.

8. The Government agree with the above and upheld the opinion of the Chairman of the APET declaring the petitioner as a founder family member.

9. The Chairman-cum-District Judge shall take further necessary action to pronounce final judgement as per the above decision of the Government. The judgement with records in original are returned.

(BY ORDER AND IN THE NAME OF THE GOVERNER OF ANDHRA PRADESH)

VINOD.K. AGARWAL,
PRINCIPAL SECRETARY TO GOVERNMENT (FAC).

To
The Chairman-cum-District Judge,
A.P. Endowments Tribunal, Hyderabad (W.e. judgment with records).

Copy to:

O.S.D. to Minister (Endowments).
P.S. to Prl. Secy. to Govt.(Endowments).
Sf/Sc.

// FORWARDED:: BY::ORDER //

SECTION OFFICER.